

 TORRANCE MEMORIAL An Affiliate of Cedars-Sinai	Department: Medical Staff Policy/Procedure: MEDICALLY INEFFECTIVE TREATMENT
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PURPOSE:

The purpose of this policy is to outline a process for the health care team to follow when a patient or their designated decision maker has requested treatment that in the best judgment of the patient's physicians is medically ineffective.

POLICY:

Background: TMMC and physicians of TMMC's Medical Staff are not obligated to offer, begin or continue a medical treatment that, in the physician's best judgment, will not be effective. This policy applies to all patients regardless of race, color, national origin, religion, disability, age, sex, marital/familial status, socioeconomic status or sexual orientation. The particular circumstances of the patient's past medical history, and cultural and religious background will be an integral part of the decision-making process. Under California law, physicians may decline to give treatment that is medically ineffective. (Probate Code § 4735.) When acting in good faith and in accordance with generally accepted health care standards, physicians are immune from civil or criminal liability and discipline for doing so. (Probate Code § 4740.) Torrance Memorial Medical Center provides a uniform and equitable approach to resolving disagreements concerning medically ineffective treatment.

"Medically ineffective treatment" includes any medical treatment, intervention, or diagnostic procedure that meets one or more of these criteria (adapted from CMA monograph number 0403):

1. It will be ineffective for producing the physiological effect that the patient or surrogate desires or expects of the medical treatment;
2. It will produce no effects that can reasonably be expected to be experienced by the patient as beneficial for accomplishing the patient's or surrogate's expressed and medically obtainable goals;
3. It will more likely cause harm than benefit for the patient;
4. It has no realistic chance of returning the patient to a level of health that permits survival outside of a general acute care hospital;
5. It would serve only to maintain the patient's life in a permanently unconscious state;
6. The patient's death is imminent as determined by the attending physician.
7. The patient has a condition in which medical interventions would, in the judgment of the attending physician, only prolong the dying process that the attending physician determines is already irreversibly underway.

Another useful term is "potentially inappropriate treatment," to describe treatments that have at least some chance of accomplishing the effect sought by the patient, but clinicians believe that competing ethical considerations justify not providing them. (ATS/AACN/ACCP/ESICM/SCCM Policy Statement.)

The attending physician and medical team will attempt to reconcile differing viewpoints between the medical team and the patient and/or medical decision maker. If disagreement persists it will be addressed in the following manner:

1. Develop consensus within the medical team not to deliver medically ineffective treatment. Document key elements, including patient's capacity for medical decision-making, discussions with patient and/or designated decision-maker regarding diagnosis, prognosis and recommended treatment plan and alternative. The attending physician will clearly state in the patient's record when a treatment requested by the patient or medical decision-maker is determined to be medically ineffective.
2. Preempt conflict. Attempt to promote understanding among the involved parties in advance.
3. Negotiate solutions to disagreements using available hospital resources including the Bioethics Committee, palliative care services, and chaplaincy services.
4. An effort should be made to contact the patient's outpatient primary care physician if available.
5. If disagreement persists, seek consultation from another physician.
6. If the consulting physician disagrees with the attending physician, consider transfer of the patient's care to the consulting physician or another physician.
7. If the consulting physician agrees with the attending physician but there is still disagreement with the patient or designated decision maker, or within the medical team, consultation from the hospital Bioethics Committee should be requested.
8. If the Bioethics Committee review disagrees with the recommendation of the two physicians, help with transfer of the patient to another physician or institution should be provided. Until such transfer can occur, the current physician remains ethically and legally responsible for the care of the patient.
9. If the Bioethics Committee review concludes that the proposed treatments are medically ineffective but there is still failure to reach consensus with the patient or designated decision maker, the following steps should be taken:
 - a) Risk Management and Administration (Chief Medical Officer) of the hospital must be consulted.
 - b) (i) Inform the patient or designated decision maker of the decision of the medical team. Document this discussion in the patient's health record.
(ii) The patient or the designated decision maker for the patient should be promptly notified in writing that the medically ineffective treatment will not be provided. A letter must be issued to the patient or designated decision maker on hospital stationery and signed by the patient's Attending Physician and the hospital's Chief Medical Officer, or their designees, documenting this decision. The letter will be hand delivered, if possible.

- c) Discuss the option of transfer to an appropriate care setting. It is the responsibility of the patient or designated decision maker to find an acceptable medical practitioner or institution and arrange the transfer of the patient. Reasonable efforts will be made to assist in the transfer of the patient.
 - d) Recognize the opportunity of the patient or designated decision maker to seek a judicial mandate to continue the treatments in question. Continuing care will be provided to the patient until a transfer can be accomplished or it appears that transfer cannot be accomplished. No new treatment which has been determined to be medically ineffective will be initiated during this time. No new treatment includes no initiation of acute resuscitative effort (Code Blue) if the patient's physicians determine that it would be medically ineffective. If a judicial review ensues, the medical team will continue treatment per judicial instruction.
10. If the patient has not been transferred or a judicial mandate has not been issued within a reasonable period of time, not to exceed five days from the issuance of the letter, the treatment in question may be withheld or withdrawn.

References:

California Probate Code sections 4735, 4736 and 4740. Health and Safety Code section 1250(a).

ATS/AACN/ACCP/ESICM/SCCM Policy Statement: Responding to Requests for Potentially Inappropriate Treatments in Intensive Care Units, Am J Respir Crit Care Med Vol 191, Iss 11, pp 1318–1330, Jun 1, 2015

Responding to requests for non-beneficial treatment Document no 0403 [monograph on the Internet] Sacramento, CA: California Medical Association; Feb 28 2013.

Attachment:

Appendix A – Flow Chart for Decision-Making

Appendix B – Sample Letter

Initial Approval and Major Revisions:

Bioethics Committee: 05/23/2018

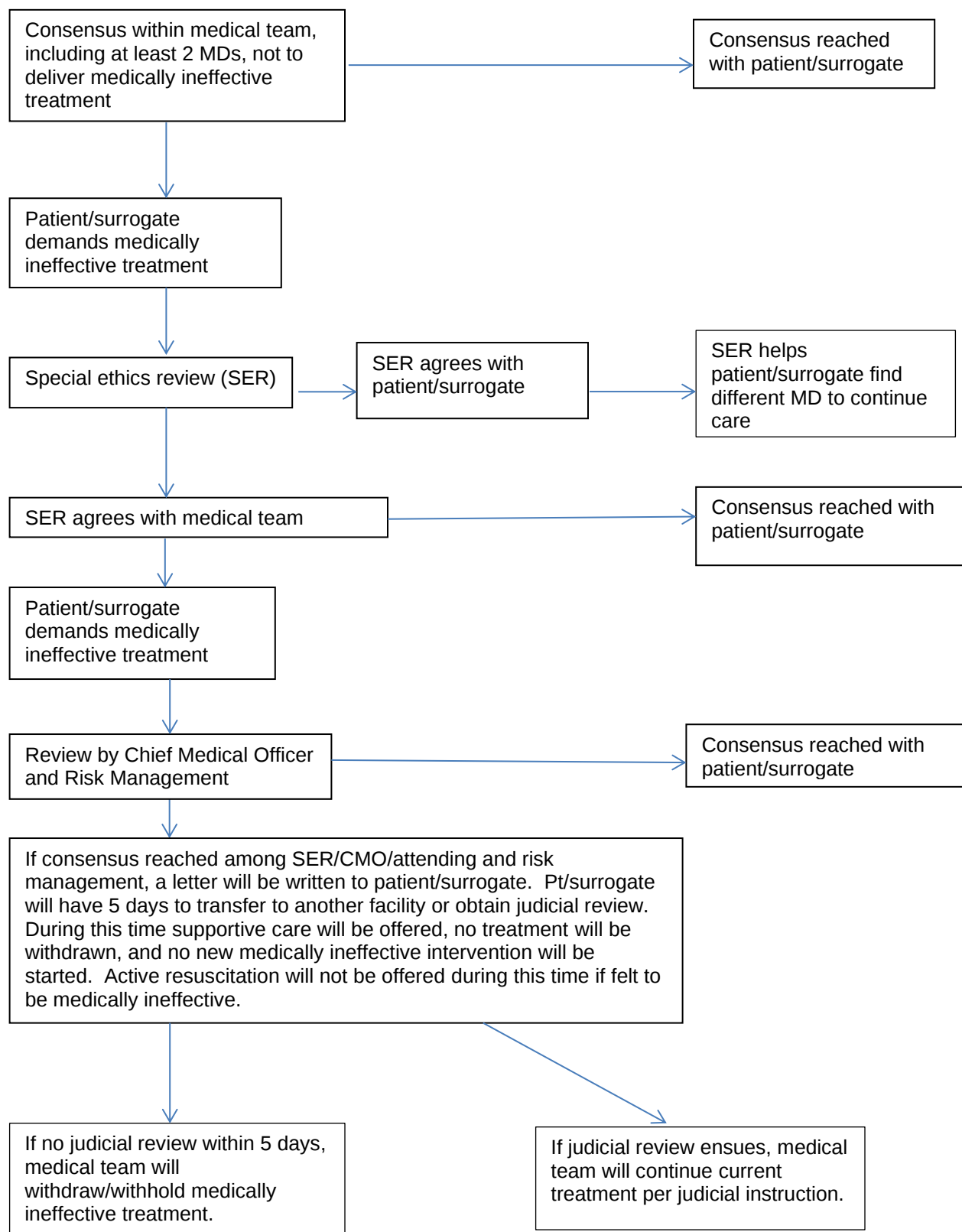
Bylaws Committee: 06/12/2018; 08/18/2023

Medical Executive Committee: 07/26/2018; 10/10/2023

Board of Trustees: 9/30/2018; 10/31/2023

Appendix A: Medically Ineffective Treatment Flow Chart

Timeline: $\leq$ 2 working days for each stage





SAMPLE LETTER (to be adapted to patient/surrogate reading level and to the circumstances of the case):

[Date]

To: [Name of patient/surrogate]
[Address]

Re: Medical care of patient, [Name and MRN] at Torrance Memorial Medical Center

Dear [Name of patient/Surrogate],

We have been caring for your [relationship to patient], [Patient's Name], during his/her current hospitalization at Torrance Memorial Medical Center. We have been asked by you to provide treatments for [Patient's Name] like [Name each treatment deemed to be medically ineffective]. We have carefully considered your reasons for requesting this care.

Our goal in caring for our patients is to provide them with medical treatments most appropriate for their condition. We have consulted with our colleagues and we have evaluated the potential outcomes of the treatment requested. We have also consulted our hospital bioethics committee and they agree that the treatments mentioned above would be medically ineffective for [Patient's Name]. After careful review and discussion, we do not believe that the requested treatments would be beneficial under the circumstances.

We are providing you with this written notice of our decision in compliance with our hospital's policy and the California Probate Code that addresses requests for medical treatments which physicians judge to be medically ineffective. We have also asked our Chief Medical Officer to sign this letter. He has reviewed this matter and his signature indicates the hospital's support of our decision.

We recognize that making treatment decisions for gravely ill persons is challenging for everyone involved. If you disagree with our decision, you may seek out another physician and institution willing to accept [Patient's Name] for transfer and provide the care you are seeking. Although you are responsible for locating alternative providers, we will make reasonable efforts to assist you. You may also seek a court order that directs our hospital to continue the treatment in question. You must carry out these alternatives within 5 days of this notice. During this time, we will continue the current medical treatment and we will not start any new treatment determined by your physicians to be medically ineffective. After that time, we will not continue to provide medically ineffective treatments.

We do recognize how difficult this time is for the patient, clinicians, and family. We will continue to work with you to develop a mutually acceptable plan of care.

Sincerely,
[Name], MD Attending Physician
[Name], MD Chief Medical Officer